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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,796	12/20/2000	Robert H. Montgomery JR.	K-1744	8446

7590

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EXAMINER

KRECK, JOHN J

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 02/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/742,796

Applicant(s)

MONTGOMERY, ROBERT H. 

Examiner

John Kreck

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "said forward tapered portion of the bore". There is insufficient antecedent basis for this limitation in the claim. Claim 14 has been examined as if it depends from claim 13, which provides antecedent basis for this limitation.

Claim 14 is also unclear regarding the angle of 8-11 degrees. It is questioned whether this should be 5.5-7 degrees.

### ***Claim Rejections - 35 USC § 102 and 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 8-12, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ritchey, et al. (U.S. Patent Number 5,628,549).

The Ritchey patent shows an apparatus for mounting a cutting tool comprising a bit holder (112); a protective wear sleeve (114); the sleeve having an outer surface that is adapted to be received in the holder; the wear sleeve including a rearward disc end portion, an annular groove portion (170), and a forward tapered portion whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement as called for in claim 1.

The Ritchey patent also shows the retainer (116) as called for in claim 4.

The Ritchey patent also shows the retainer is generally a cylindrical split sleeve retainer having beveled portions (see figures 6 or 10) as called for in claim 8.

The Ritchey patent also shows the beveled portion initially angled at 25 degrees (see figure 10) as called for in claim 9.

The Ritchey patent shows a joint coupling comprising a female member (112); a male member (114); the male member having an outer surface that is adapted to be received in the female member; the male member including a rearward disc end portion, an annular groove portion (170), and a forward tapered portion whereby once the male member is set in the female member the male member will remain without relative rotation or axial movement as called for in claim 10.

The Ritchey patent also shows the retainer (116) as called for in claim 11.

The Ritchey patent also shows the retainer (116) as called for in claim 12.

The Ritchey patent also shows the retainer is generally a cylindrical split sleeve retainer having beveled portions (see figures 6 or 10) as called for in claim 16.

The Ritchey patent also shows the beveled portion initially angled at 25 degrees (see figure 10) as called for in claim 17.

The Ritchey patent shows a cutting tool assembly comprising a bit holder (112); a protective wear sleeve (114); the sleeve having an outer surface that is adapted to be received in the holder; the wear sleeve including a rearward disc end portion, an annular groove portion (170), and a forward tapered portion whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement as called for in claim 18.

3. Claims 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Galorneau, et al. (U.S. Patent Number 3,143,177).

The Galorneau patent shows a joint coupling comprising a female member (50); a male member (12); the male member having an outer surface that is adapted to be received in the female member; the male member including a rearward disc end portion, an annular groove portion (37), and a forward tapered portion whereby once the male member is set in the female member the male member will remain without relative rotation or axial movement as called for in claim 10.

The Galorneau patent also shows the female member having a cavity bore having a forward tapered portion and rearward cylindrical portion as called for in claim 13.

4. Claim 14 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Galorneau.

The Galorneau patent does not expressly disclose the forward tapered portion having an angle of between 8-11 degrees as called for in claim 14. It is apparent from the figures that the angle falls within that range; alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made the angle between 8 and 11 degrees as called for in claim 14, based on design considerations; such as material characteristics or expected load.

5. Claims 1-7, 10-15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewerf, Jr. (U.S. Patent Number 5,370,448).

The Stewerf patent shows an apparatus for mounting a cutting tool comprising a bit holder (3); a protective wear sleeve (2); the sleeve having an outer surface that is adapted to be received in the holder; the wear sleeve including a rearward disc end portion, an annular groove portion (31), and a forward tapered portion whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement as called for in claim 1.

The Stewerf patent also shows the tapered portion at an angle of between 5.5-7 degrees (see col. 6, line 55) as called for in claim 2.

The Stewerf patent also shows the retainer (32) as called for in claim 3.

The Stewerf patent also shows the retainer (32) as called for in claim 4.

The Stewerf patent also shows cavity bore having a forward tapered portion (29) and a rearward cylindrical portion (30) as called for in claim 5.

The Stewerf patent also shows the tapered portion at an angle of between 5.5-7 degrees (see col. 6, line 55) as called for in claim 6.

The Stewerf patent also shows the external portion adjacent the tapered portion, and the external portion having shoulder (14) and a rounded undercut portion (21) as called for in claim 7.

The Stewerf patent shows a joint coupling comprising a female member (3); a male member (2); the male member having an outer surface that is adapted to be received in the female member; the male member including a rearward disc end portion, an annular groove portion (31), and a forward tapered portion whereby once the male member is set in the female member the male member will remain without relative rotation or axial movement as called for in claim 10.

The Stewerf patent also shows the retainer (32) as called for in claim 11.

The Stewerf patent also shows the retainer (32) as called for in claim 12.

The Stewerf patent also shows cavity bore having a forward tapered portion (29) and a rearward cylindrical portion (30) as called for in claim 13.

The Stewerf patent also shows the tapered portion at an angle of between 8-11 degrees (see col. 6, line 55) as called for in claim 14.

The Stewerf patent also shows the external portion adjacent the tapered portion, and the external portion having shoulder (14) and a rounded undercut portion (21) as called for in claim 15.

The Stewerf patent shows a cutting tool assembly comprising a bit holder (3); a protective wear sleeve (2); the sleeve having an outer surface that is adapted to be received in the holder; the wear sleeve including a rearward disc end portion, an annular groove portion (31), and a forward tapered portion whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement as called for in claim 18.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Warren, et al. (U.S. Patent Number 6,099,081) and Topka, Jr., et al. (U.S. Patent Number 6,176,552) show similar sleeves. DeMay, III (U.S. Patent Number 4,582,364) and Krekeler (U.S. Patent Number 3,767,266) show tapered retainers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on 6:30-3:00.

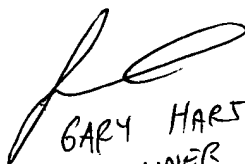
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3597 for regular communications and (703)305-7687 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK  
January 31, 2002



GARY HARSHMAN  
EXAMINER  
ART UNIT 3673